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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/864,885  | 05/25/2001  | Mark Rukavina        | 12683-6109          | 2287             |
| 57449 7590 05/12/2009<br>SHEEHAN PHINNEY BASS & GREEN, PA<br>c/o PETER NIEVES<br>1000 ELM STREET<br>MANCHESTER, NH 03105-3701 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| HADZONOOZ, BANAPSHEH  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/864,885

**Applicant(s)**

RUKAVINA ET AL.

**Examiner**

Banafsheh Hadizonooz

**Art Unit**

3715

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 13-17, 19-22, 24-36, 38 and 43-50 is/are pending in the application.
- 4a) Of the above claim(s) 5-10, 13-15, 19-21, 26-31, 34-36 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/3508)  
Paper No(s)/Mail Date 04/27/2009.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Detailed Action***

In response to the amendment filed on 01/02/2009, Claims 1-11, 13-17, 19-22, 24-36, 38, 43-50 are pending. Claims 5-10, 13-15, 19-21, 26-31, 34-36 and 38 are withdrawn. Claims 12, 18, 23, 37, 39-42 and 51-58 are cancelled. This office action is made Final.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 11, 17, 24, 25, 49, 50-54, and 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehurst et al (US 2002/0142278) in view of Lamp (US 2002/0143873) further in view of Pellegrino et al. (US 6,149, 441).**

[Claims 1, 43, 49]: Whitehurst disclose a system and method for training, comprising: a data base (e.g. data source) for storing a plurality of reusable learning objects (e.g. course data) and a profile of at least one student (e.g. student/class data) that defines a plurality of course requirements of the student; and a dynamic rendering engine (e.g. learning management system) adapted and configured to create an individualized course for the student by assembling a subset of the learning objects in response to an assessment item (e.g. assessment engine) designed to evaluate whether the student has mastered a learning objective, wherein learning objects are unassembled

immediately prior to delivery (See Figure 2 and P.1,[0008]). Whitehurst further discloses that object is a software construct used to bundle together code and that the software application receives e-learning content and categorizes the content into classes of discrete elements (See [0048]-[0050]). Whitehurst does not specifically disclose that the authoring tool is operable to decompose course content into individual objects. However, Lamp discloses a learning content creation system with a methodology for breaking down the content into reusable learning objects. Therefore, it would have been obvious to one of ordinary skill in the art to modify the teachings of Whitehurst to incorporate the features of Lamp's invention in order to design a system that allows instructors to easily share and reuse their teaching materials in a manner that is individually customized to students' need.

Whitehurst/Lamp do not specifically disclose using object-oriented programming in implementing the invention in order to be able to dynamically assemble and deliver the lessons. However, Pellegrino discloses computer-based educational system comprising a lesson builder that builds and delivers lesson materials to students and uses object-oriented programming as one way to achieve system's functionality (See Col.27, 37-56). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the features of Pellegrino's invention into the system and method of Whitehurst/Lamp in order to take advantage of more recent programming language for dynamic delivery of course content.

[Claims 2,11]: Regarding claim 2, Whitehurst further discloses a system, wherein each of the learning objects represents a discrete element of the e-learning course (e.g. audio files, text files, etc) (See P.2, [0010]).

With respect to claim 11, Whitehurst discloses a system, wherein the dynamic rendering engine delivers the e-learning course to the student via a computer network (See P.2, [0018]).

Regarding Claim 16, Whitehurst discloses a learning management system that manages student information and guides students learning (See Abstract).

[Claims 17, 50]: Whitehurst discloses an authoring tool (e.g. content development engine) operable to create a plurality of learning objects, wherein at least one of the learning objects includes an assessment item for determining the learning objects containing learning objectives of the student (See Figure 1, and P.2, [0011]); a dynamic delivering tool operable to deliver a course page of instruction embodying at least one learning object, wherein the course page is dynamically assembled by the e-learning tool in response to determining characteristic of the student by evaluating the assessment item; and a learning management system containing student's profile. (See P.1, [0008]). Whitehurst further discloses that object is a software construct used to bundle together code and that the software application receives e-learning content and categorizes the content into classes of discrete elements (See [0048]-[0050]). Whitehurst does not specifically disclose that the authoring tool is operable to decompose course content into individual objects. However, Lamp discloses a learning content creation system with a methodology for breaking down the content into reusable

learning objects. Therefore, it would have been obvious to one of ordinary skill in the art to modify the teachings of Whitehurst to incorporate the features of Lamp's invention in order to design a system that allows instructors to easily share and reuse their teaching materials in a manner that is individually customized to students' need.

[Claim 24, 25]: Whitehurst discloses learning management system presents course information to the student in a form of a campus that summarizes which of a plurality of courses are available to the student and which of the available courses the student has taken (See P.5, [0035]); the system further comprises a data base for storing the plurality of learning objects and students profile (See P.2, [0010], P.4, [0030]).

[Claim 32]: Claim 32 discloses means to perform the features of Claim 1 above.

**Claims 3, 4, 33, 44, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehurst et al (US 2002/0142278) in view of Lamp (US 2002/0143873) further in view of Pellegrino et al. (US 6,149, 441) as applied to claim 1 above and further in view of Cook (US 6, 201, 948).**

[Claims 3, 4, 33, 44, 22]: Whitehurst/Lamp/Pellegrino discloses all the claim limitations except for including technological capability of a computer system in student profiles. Cook discloses that the profile includes a technological capability of a computer system being utilized by the student (See Col. 7, 17-21), wherein the technological capability is bandwidth available to the student for receiving the e-learning course (See

Col.20, 29-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the features of the Cook's invention into the limitations of the system of Whitehurst in order to assess the student's performance objectively.

Regarding claim 33, Cook discloses a system, wherein the student information identifies a language preference of the student, a technological capability of a computer system used by the student to access the e-learning content, and information as to e-learning content with which the student is familiar (See Col.7, 17-21 and Col.26, 52-59).

With respect to claim 45, Cook further discloses the article of manufacture of claim 44, wherein the requirements of the user are separately stored within a database profile (Col. 14, 21-28), and further wherein the third code segment determines the subset of learning objects by semantically matching the requirements to the subset of learning objects (Col. 24, lines 15-29).

Regarding claim 46, Cook further discloses the article of manufacture of claim 43, wherein the first code segment further comprises: a code segment for presenting a plurality of templates to a course developer, for entering the course content into the templates for accumulation (Col. 4, 41-45).

Claims 47 and 48 disclose means for carrying out claim 43.

### ***Response to Arguments***

Applicant's arguments filed on 01/02/2009 have been fully considered but they are not persuasive.

The applicant argues that the Whitehurst reference relies on the internet to distribute learning objects which have disadvantages and that the instant application solves the problem with using Internet, HTML and XML languages for constructing and delivering courses. The examiner notes that using object oriented programming in designing and dynamic delivering of content is well known in the art. The examiner further notes that it is not clear how the claimed invention solves the disadvantages associated with the prior art reference namely disadvantages associated with using the Internet for course delivery purposes. The instant application still uses internet for communicating with client computers as discloses in paragraph [0031].

Applicant's argument regarding the newly amended claims is mute in view of new grounds of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Banafsheh Hadizonooz whose telephone number is 571-272-1242. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272- 7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BH  
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